IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 5998 of 2005

Date of decision: 19.04.2007

M/s Vikas Construction

..... Petitioner.

Versus

M/s Shiv Shakti Diamond Gangsaw etc.

..... Respondents.

CORAM: HON'BLE MR. JUSTICE M.M. AGGARWAL

Present:- Mr. N.D. Achint, Advocate
for the petitioner.

M.M.AGGARWAL, J. (ORAL)

This is a petition against the order dated 10.12.2004 of Civil Judge (Junior Division), Gurgaon.

In this petition, petitioner prays an opportunity to deposit the publication charges for service of the defendant.

The facts of the case are that plaintiff now petitioner had filed a suit for recovery of Rs.80,000/-. That suit was dismissed under Order 9 Rule 2 Code of Civil Procedure vide impugned order when publication charges for service of defendant were not deposited. Then it appears that an application for restoration of the suit was filed, which was got dismissed as withdrawn by counsel for the plaintiff on 25.02.2005.

Counsel for the petitioner says that the application was wrongly got dismissed as withdrawn by the counsel in the trial Court under an impression that revision was maintainable and an application for restoration was not maintainable.

It has been prayed that one opportunity be given for depositing the publication charges for service of defendant.

This is a suit for recovery, filed by the plaintiff, where court fee as required had been paid.

After hearing counsel for the petitioner, this petition is allowed in the interest of justice, subject to payment of Rs.5000/- as costs to be deposited in the District Legal Aid Fund, Gurgaon. Thereafter the trial Court shall restore the file and make an appropriate order for service of defendant. Petitioner shall positively deposit fresh PF & fee etc. for service of the defendants.

April 19 , 2007 **(M.M. AGGARWAL)**
Dinesh **JUDGE**